

The BUSINESS *of* DENTISTRY

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There are many reasons why someone chooses to become a dentist: a family member was in the profession, they have a proclivity for the sciences of health care, or they like the autonomy of having their own practice. Mark Gonthier, assistant dean for admissions of Tufts University School of Dental Medicine, offered this description of the ideal dental school applicant, “We are looking for mature, well-rounded students capable of handling the rigor of the basic sciences curriculum and are equally adept and committed to providing quality comprehensive patient oral health care.” Few dentists will report that they chose their profession because they wanted to run a small retail business.

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The most common theme heard from most dentists is a passion for helping people maintain or restore their dental health and the attendant functional and esthetic successes. Dr. David Leader wrote, “dentists have a history of compassion and volunteerism. Dental schools are more likely to choose applicants who already demonstrate these qualities.”¹

Dentists believe that a successful practice comes from being a good dentist and caring about their patients, and for the most part that’s true. Yet, because dentistry is a profession, most dentists don’t think of themselves as running a small enterprise subject to many of the same laws, rules, and regulations associated with a large business. However, such is the reality today of the business of dentistry.

Today, the owner of a dental practice wears many hats in the eyes of the law and the Dental Board of California. Dental practice owners are the chief executive officer, the chief financial officer, the head of marketing, human resources, quality control, OSHA compliance, and at the same time, the primary source of production. Every one of these roles requires an understanding of the legal duties and associated risks. Because for the most part the dental office is open to the public, the law regulates

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them much the same as any small retail goods and service store. In addition, there are the regulations associated with having a health care license, such as OSHA and The Dental Practice Act.^{2,3}

These roles, duties, and regulations require that the prudent practitioner obtain a fundamental knowledge of the laws and obligations of running a small business well beyond the typical training associated with undergraduate education at many dental schools. Those rules and regulations require documentation and a vigilance for changes.

Therefore, claims avoidance is not just about striving for quality care. It is more about risk recognition and being proactive to minimize the effects of such risks. An example is driving a car. Few of us wake up in the morning planning to have an accident. We believe we are careful drivers and try to be vigilant of others. However, we still put on a safety belt and prefer to have a car with air bags because we know that we can still have an accident. This issue addresses some area of potential legal problems and offers advice for early risk recognition.

As a small business, dentists need, and therefore will be exposed to, numerous agreements and contracts, such as business entity structure (solo, partnership, corporation), hiring associates, leases of equipment and office space, sales and purchases of practices and the attendant estate planning. Mike Kowalski, DDS, JD, and Steve Barrabee, JD, review the basic legal issues of the formation and maintenance of a dental office, and offer guides in the article, "The Legal Business of Dentistry."

OSHA, intended to primarily protect employees, sets forth detailed and specific rules for infection control in

the dental office making old practices illegal. All licensed California dentists are required to take a course on infection control every two years (CCR 1016-b-1), and therefore must know, implement, and abide by those regulations.⁴ However, employment claims outside of OSHA have increased in number and scope in recent years. Employment law has evolved and now requires protocols, policies, and documentation to prevent claims for wrongful termination, discrimination, harassment, and wage/hours violations. Bernadette Bantly, JD, offers an overview of employment law along with samples and tips for maintaining good employer/employee relationships in "Practical Employment Strategies: Win-Win Solutions for Dentists and Their Employees."

Any good business owner wants to stay current with changes in their area of goods and services. For dentists that means continuing education. However, for some, continuing education is viewed as a way to learn techniques and procedures to increase fees and thereby increase profits. But the law requires that doctors attempting new treatment modalities, or ones typically done by specialists, such as implants, still maintain the standard of care in the community. That requirement often means evaluating the

quality of a continuing education training program. Stephen Wheeler, DDS, and Cynthia Bollinger, a practice management specialist, provide a review of the pitfalls of inadequate continuing education training and provide recommendations in "Complication or Substandard Care? Risks of Inadequate Implant Training."

At the same time, the standard of care is always evolving, sometimes quite dramatically. David Hatcher DDS, and I review the arrival of new 3-D imaging and the very significant associated changes in the standard of care in "Cone Beam CT — Anatomic Assessment and Legal Issues: The New Standards of Care" that were once considered risks are now being used as evidence of substandard care and malpractice, resulting in large verdicts and settlements.

Finally, at the end of the day, a successful claims-free business is as much about customer (patient) service as it is the latest and greatest techniques or technology. Building and maintaining trust and patient loyalty is essential. Clyde Schultz, DDS, shares the lessons learned and recommendations from having developed several successful practices in "Making Standard of Caring Part of the Standard of Care."

Combining quality care with risk recognition and implementing the recommendations of the authors herein will help insure success in the business of dentistry. ■■■■

REFERENCES

1. <http://dentistryjournal.info/want-to-become-a-dentist/>. Accessed June 29, 2009.
2. http://www.osha.gov/OshDoc/data_BloodborneFacts/. Accessed June 29, 2009.
3. <http://www.dbc.ca.gov/lawsregs/laws.shtml>. Accessed June 29, 2009.
4. http://www.dbc.ca.gov/lawsregs/1016_proposed_ce_reg.pdf. Accessed June 29, 2009.